United Nations A/53/717

General Assembly

Distr.: General
1 December 1998

Original: English

Fifty-third session
Agenda item 110 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Letter dated 27 November 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

Upon the instruction of my Government, I am writing to present the position of the Federal Republic of Yugoslavia on the consideration in the General Assembly of the draft resolutions on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (the omnibus resolution) and on the situation of human rights in Kosovo and Metohija adopted in the Third Committee.

The consideration and adoption of the draft resolution on Kosovo and Metohija bring into question the territorial integrity and sovereignty of the Federal Republic of Yugoslavia. The consideration of the human rights situation in a part of the territory of a sovereign country is contrary to the principles of the Charter of the United Nations, as well as the norms of international law, all the more so as no mention is made of the country involved. Furthermore, the Third Committee had already adopted the resolution on the human rights situation in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia and the extraction of the human rights situation in Kosovo and Metohija from the omnibus resolution to be dealt with in a separate resolution creates the impression that this province of the Yugoslav constituent, the Republic of Serbia, is not part of the Federal Republic of Yugoslavia at all.

The draft resolution on Kosovo and Metohija makes only a passing reference to the positive developments on the ground and the efforts invested by the Governments of the Republic of Serbia and the Federal Republic of Yugoslavia in bringing about the continuation of dialogue. The overall thrust of the draft resolution, however, runs against the grain of the actual situation and is patently dismissive of the reports of Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights, and of the Kosovo Diplomatic Observation Mission.

The allegations about "the persistent and grave violations and abuse of human rights and humanitarian law in Kosovo", "the systematic terrorization of ethnic Albanians", "indiscriminate and widespread shelling, mass forced displacement of civilians, summary executions and illegal detention of ethnic Albanians" and the "lack of due process in the trials of those ethnic Albanians who have been detained, charged or brought to trial in relation to the crisis in Kosovo" are inaccurate and tendentious. They are best denied by the recent reports of the representatives of the international community, whose accounts of the situation in Kosovo and Metohija accentuate the significant improvements that have taken place. The allegation of the "breach of international humanitarian law including article 3 common to the Geneva Conventions of 12 August 1949 and Protocol II to the Conventions" and, by implication, of the existence of an internal armed conflict in Kosovo and Metohija is arbitrary in the extreme. There was no armed conflict in Kosovo and Metohija; instead, the legal authorities of the Republic of Serbia and the Federal Republic of Yugoslavia

carried out legitimate actions against terrorists who had killed, kidnapped and terrorized the population, irrespective of national affiliation.

In an effort to present a distorted picture of the situation in Kosovo and Metohija, the authors of the draft resolution did not hesitate to use double standards. Consequently, the draft resolution "strongly condemns" the authorities of the Republic of Serbia and the Federal Republic of Yugoslavia and incriminates their legitimate actions, whereas it "also condemns" the terrorist activities of "armed ethnic Albanian groups", often going so far as to call them civil unrest. The language of United Nations documents should not obfuscate, let alone distort, facts. After all, if relevant Security Council resolutions decidedly condemn terrorism in Kosovo and Metohija, why should it be called otherwise in the resolutions of the General Assembly?

Also the draft resolution is in stark contrast with the statements of the representatives who drafted it. In that context, it is important to note that some of these countries are engaged in close cooperation with the authorities of the Republic of Serbia and of the Federal Republic of Yugoslavia in an effort to restart dialogue in Kosovo and Metohija. The failure of a resolution on human rights to be adopted by the General Assembly to condemn, as a matter of priority, ethnic Albanian terrorists and separatists whose gross violations of human rights have been documented in numerous reports by many observers in the field is therefore hard to understand.

The draft resolution makes no mention of the Republic of Albania, which, in its overt support for separatism and terrorism in Kosovo and Metohija, is in breach of every tenet of acceptable international behaviour. Not only has the Republic of Albania not fulfilled its obligations under relevant Security Council resolutions, but, by providing shelter to terrorists and facilities for their recruitment, training and infiltration in the Federal Republic of Yugoslavia it has gone a long way in the opposite direction. By recognizing the phantom "Republic of Kosovo" and accepting its "representatives", the Republic of Albania has unmasked its claims to parts of the territory of the Republic of Serbia and the Federal Republic of Yugoslavia, violating the norms of international law regulating relations among independent States.

A reference to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 in a resolution on the situation of human rights in Kosovo and Metohija is unwarranted. There was no civil war or armed conflict in Kosovo and Metohija and, by extension, there were no serious violations of international humanitarian law for the prosecution of which the Tribunal was established. In accordance with the Constitution and the laws of the country, the authorities of the Republic of Serbia are conducting an investigation of all alleged human rights violations and atrocities committed by terrorists, in which they are cooperating successfully with foreign experts. This is evinced in paragraph 12 of your report on the human rights situation in Kosovo and Metohija of 30 October 1998 (A/53/563) in which it is stated that "following correspondence between the Governments of the Federal Republic of Yugoslavia and Finland, a team of forensic experts from Finland arrived in Belgrade on 20 October 1998. The team, working under the auspices of the European Union, will assist the authorities of the Federal Republic of Yugoslavia in forensic investigations in Kosovo, but is also authorized to carry out independent investigations".

The draft resolution makes no reference to the agreement between the President of the Federal Republic of Yugoslavia, Slobodan Milosevic, and the Special Envoy of the United States of America, Richard Holbrooke, consisting of 11 points and the timetable (see document S/1998/953, annex). It makes no mention of the efforts of the Governments of the Republic of Serbia and the Federal Republic of Yugoslavia which, in order to improve the humanitarian situation in Kosovo and Metohija, provide financial, material and humanitarian assistance to all those in need without discrimination. The draft resolution pays no heed to the information, verified internationally, about the return of temporarily displaced persons, which is illustrative of the claim by the Federal Republic of Yugoslavia that Kosovo and Metohija were never threatened by a humanitarian catastrophe. An effort is also made in the draft resolution to conceal the constructive contribution of the Government of the Federal Republic of Yugoslavia to the implementation of the Dayton/Paris Peace Accords, even though it is widely known that the Federal Republic of Yugoslavia has fulfilled its obligations under the Accords and that it is a factor of peace and stability in the Balkans.

In conclusion, I would like to reiterate once again that the Federal Republic of Yugoslavia has fulfilled all its obligations under the relevant resolutions of the Security Council and reached an agreement with an explicit implementation timetable. Consequently, most of the demands from the draft resolution amount to a knock on an open door. On the other hand, the Albanian terrorists and separatists continue with their terrorist activities and provocations and the representatives of major political parties of ethnic Albanians in Kosovo and Metohija have not yet responded to the invitations to resume dialogue. For the sake of the truth,

as well as the principles enshrined in the Charter of the United Nations, the documents of the United Nations should respect and reflect these indisputable facts.

I would be grateful if you would have the present letter circulated as a document of the General Assembly under agenda item 110 (c).

(*Signed*) Vladislav **Jovanović**
Chargé d'affaires a.i.